



**CITY OF ROCKVILLE  
ROCKVILLE, MARYLAND**

**REQUEST FOR PROPOSAL #09-07  
ACTUARIAL REVIEW**

Sealed proposals addressed to the City of Rockville, Maryland for **ACTUARIAL REVIEW** will be received at the Purchasing Office, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850 until **1PM, FRIDAY, SEPTEMBER 22, 2006**

The bidder assumes full responsibility for the timely delivery of the proposal to the designated location. Proposals delivered to any other office or location will not be considered.

**Project Purpose**

The City of Rockville is seeking an actuarial review of the City's post-employment benefits package for retired employees. The review will allow for the implementation of the Governmental Accounting Standards Board (GASB) statements No. 43 *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*, and No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits other than Pensions*). More commonly this is known as (OPEB) or Other Post Employment Benefits. The City needs an estimate of the long-term costs of the city's health benefit for retirees, or stated differently what are the outstanding and future liabilities associated with providing its post-employment benefit package.

**DOCUMENTS**

The proposal documents are available several ways:

1. By downloading the document from the City website at <http://www.rockvillemd.gov> Click on bids and proposals.
2. Call the Purchasing Division at (240) 314-8430 and we will mail the RFP to you, or
3. You may visit the Purchasing Division and pick up a bid or proposal packet between the hours of 8:30 a.m. – 5:00 p.m., Monday through Friday, excluding government holidays. We are located at Rockville City Hall, 111 Maryland Avenue, Rockville, MD 20850. Call (240) 314-5048 for directions.

## **RECEIPT AND HANDLING OF PROPOSALS**

The offeror assumes full responsibility for the timely delivery of the proposal to the designated location. Proposals delivered to any other office or location will not be considered. In accordance with Chapter 17 of the City's Purchasing Ordinance, competitive sealed proposals are not publicly opened or otherwise handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the evaluation process. The proposals, except for information identified by the offeror as proprietary, shall be open for public inspection after contract award.

## **AWARD**

Award will be made to the qualified bidder obtaining the highest weighted score combining the price and technical specifications.

## **AGREEMENT**

The successful contractor shall be required to complete a two-party standard form of agreement (sample attached). No changes to the agreement form will be accepted.

## **NOTICE TO BIDDERS**

Companies not incorporated in the State of Maryland must be in compliance with the State of Maryland Code of Regulations Title 21, State Procurement Regulations in order to enter into a contract with the City. "Pursuant to 7-201 et seq of the Corporations and Associations Article the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, MD 21201 before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation."

Bidders must supply with their bids their US Treasury Department Employers' Identification Number as such number is shown on their Employer's Quarterly Federal Tax Return (US Treasury Department form No. 941).

Bidders must be qualified to bid in the state in accordance with Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland which ordains that any person convicted of bribery (upon acts committed after July 1, 1977) in furtherance of obtaining a contract from the State or any subdivision of the State of Maryland shall be disqualified from entering into a contract with the City. Companies located outside Maryland should call 1-410-767-1006, or e-mail: [charterhelp@dat.state.md.us](mailto:charterhelp@dat.state.md.us).

**THE CITY RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS IN PART OR FULL AND TO WAIVE ANY TECHNICALITIES OR INFORMALITIES AS MAY BEST SERVE THE INTEREST OF THE CITY.**

**ANY INDIVIDUALS WITH DISABILITIES WHO WOULD LIKE TO RECEIVE THE INFORMATION IN THIS DOCUMENT IN ANOTHER FORM MAY CONTACT THE ADA COORDINATOR AT (240) 314-8100; TDD (240) 314-8137**

## SCOPE OF SERVICES GASB 45

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### A. **Introduction**

The City of Rockville, Maryland (the "City"), was incorporated in 1860. Its legal authority is derived from Article XI E of the State Constitution and Article 23A of the Annotated Code of Maryland. Rockville has a population of 59,658 and a land area of 13.03 square miles. According to the 2000 census, Rockville is the fifth largest city in Maryland. The City has operated under the council-manager form of government since 1948. The City is a municipal corporation where the City Council is comprised of a mayor and four at-large members. Services provided include water, sewer, refuse, streets and drainage, recreation and parks, police, planning and zoning, community development, and community services. Schools, libraries, social services, and fire protection are provided by Montgomery County, Maryland. The City's adopted budget for FY 2007 is \$85mil all funds and a \$56mil General Fund.

### B. **Project Purpose**

The City of Rockville is seeking an actuarial review of the City's post-employment benefits package for retired employees. The review will allow for the implementation of the Governmental Accounting Standards Board (GASB) statements No. 43 *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*, and No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits other than Pensions*). More commonly this is known as (OPEB) or Other Post Employment Benefits. The City needs an estimate of the long-term costs of the city's health benefit for retirees, or stated differently what are the outstanding and future liabilities associated with providing its post-employment benefit package.

### C. **Background**

The City manages its own Defined Benefit and Thrift pension plans and provides for limited retiree health benefits. Based on the fiscal 07 budget, the City has approximately 530 full time regular positions and 90 temporary positions. The City's contribution toward health insurance for employees, including dependents, and retirees is on average 80% of the lowest premium cost of the plans available.

Currently, 35 retirees are covered. The retirement health benefit is available only to employees who retire from the City. To be eligible for City-paid retirement health benefits, an employee must meet the requirements for retirement see OPEB note below.

Currently, the City uses a pay-as-you-go approach for retiree health insurance. The following table shows the amounts paid for retiree health insurance:

Fiscal Year	Number of retirees	Amount paid
2005 – 2006	33	\$33,408
2004 - 2005	35	\$53,386
2003 - 2004	35	\$50,898
2002 - 2003	35	\$58,421

The City has not previously conducted an actuarial study of post employment benefits.

The City's current annual health benefits are as follows:

	Full Time Employees All	Full Time Employees All No Dental
Medical		
Single	\$2,765	\$2,900
Single + 1	\$5,531	\$5,785
Family	\$8,296	\$8,622
Dental		
Single	\$135	
Single + 1	\$255	
Family	\$327	

**D. Other Post-employment Benefits (OPEB)**

The description of the City's (OPEB) below is taken from the 6/30/2005 CAFR. The note describes the benefit that the City provides in detail.

*In addition to the pension benefits described in Note 5, the City provides post-employment health benefits. The pension plan, under the direction of the Retirement Board, authorizes a retiree who elects to stay with the City's policy group to receive from the City the employer's share (i.e., the same level of premium support given to current employees) of medical insurance premiums up until age 65. In the event a retiree establishes residency outside the geographic area served by the City's group health insurance carriers, that person may purchase coverage and receive reimbursement from the City in an amount not to exceed the prevailing two-person coverage employer rate granted to current employees.*

*The pension plan stipulates that eligible retirees from the administrative and union employee groups shall include those who (a) retire, having attained age 60 while employed with the City and who have completed at least 10 years of service prior to retirement, (b) take early retirement occasioned by poor health and deemed to be permanently and totally disabled in accordance with the Federal Social Security Act, having attained age 50 while employed with the City and having completed 10 years of service, or (c) take early retirement from the City when their age plus service equals or exceeds 85.*

*Eligible police retirees are those who have met the conditions stated above or who have attained their normal retirement date on the first day of the month coinciding with or following the earlier of (a) the employee's 60th birthday or (b) the later of the employee's 51st birthday and completion of 25 years of credited service.*

*Currently, the City finances the post employment health insurance benefits on a pay-as-you-go basis and expenditures for these insurance premiums are recorded in the General Fund. During fiscal year 2005, 35 retirees received post-employment health benefits.*

*Expenditures of approximately \$53,386 were incurred by the City in furnishing these benefits.*

There is no right to survivorship with the benefit. Spouses are eligible to continue to participate in the City's plans but they are responsible for 100% of the premium cost.

## **E. Scope of Services**

The objective of this project is to be able to recognize OPEB costs systematically over employees' years of service and to provide relevant information about the actuarial accrued liabilities for these benefits. Specifically, the selected firm will provide:

1. A determination of the City's retiree medical benefit actuarial liability as of June 30, 2006 including:
  - The actuarial present value of total projected benefits
  - Actuarial accrued liability
  - Actuarial value of assets
  - The unfunded actuarial accrued liability
  - Normal Cost
  - Annual required contribution of the employer as a level dollar amount and as a level percentage of covered payroll
  - Net OPEB obligation
2. A breakdown of this liability by the following:
  - Current Employees
  - Retired Employees
  - Valuation of liability assuming a trust fund would be used
3. An analysis and explanation of the various funding strategies that might be considered for funding the cost of benefits associated with past service and strategies for reducing the cost of the benefit going forward.
4. The required annual total contribution amounts under the various funding strategies utilizing different amortization periods (20, 25, and 30 years).
5. A breakdown of the annual contribution amount into the following components:
  - Normal contribution amount
  - Past service amount
  - All other unfunded liabilities
  - Interest earning component on contribution amounts
6. Determine the implicit rate subsidy, and the impact on the OPEB liability.
7. A schedule for indicating the projected number of retirees for each of the next 30 years based on the current pools of retirees and active, with the projected benefits payable.
8. Information necessary so that the City can comply with GASB OPEB reporting and disclosure requirements.

9. A summary of the actuarial basis and assumptions used in the valuation. If the assumptions are different than what is currently being used with the City's pension plan, then an analysis of the benefits of the allowed actuarial methods and amortization methods with the pros' and cons of each method and the most appropriate or commonly used one or two methods for this type of study, and their impact on the City's OPEB liability should be explained.

10. Prepare a cash flow analysis to show impact of paygo funding.

11. Provide recommendations on managing the City's OPEB liability including changes in plan design, formation of a trust fund, formation of an internal services fund etc. etc.

10. An executive summary of the results of this analysis.

The contracted firm shall perform the following activities to complete the actuarial funding study for the City's OPEB program:

1. Meet with City Staff to help select appropriate actuarial cost method (entry age, frozen entry age, attained age, or other deemed appropriate).
2. Estimate the appropriate Governmental Accounting Standards Board (GASB)-required reserve for the outstanding liability as of June 30, 2006, or more recently if possible.
3. Prepare a written report summarizing conclusions and recommendations and documenting the analysis.
4. Attend one (1) meeting with City officials and possibly with an external auditor to discuss the report.
5. If the City requests additional services or meetings the City will make payment based on the hourly billing rates

F. **Information about the Firm**

The proposer firm should provide the following information in the proposal:

- The firm should provide its name, address of the office which would provide the services requested, telephone number, fax, e-mail address and website, if applicable.
- The firm should provide a general description of its business, including size, number of employees, number of credentialed actuaries, primary business, other business or services offered and review any past or contemplated changes in the ownership structure of the firm.
- The supervising actuary who will be assigned to the engagement should be identified and their contact information provided.
- Other actuaries and other personnel who will have key roles in the work should also be identified.
- Brief resumes should be furnished for the key professional staff who will be assigned to this engagement. Summary information should be provided covering the professional qualifications and experience of the supervising and support actuaries and other personnel who would perform the requested work.
- The firm should provide a description of its experience in providing actuarial and consulting services for governmental entities/plans and a list of governmental entities/plans for which it has performed services similar to those identified under "Scope of Services." Describe the firm's experience with retiree healthcare and other post-employment benefit plans for other public entities. Recognizing the value of firm experience with FASB OPEB valuations, firms should also describe their private sector OPEB valuation experience.
- For the firm's office that will be responsible for the work, the firm should provide a list of the most significant engagements performed in the last five years that are similar to the engagement described in this request for proposal. The list of engagements can be both in the private or public sector but must be clearly labeled as such. A minimum of 5 references with addresses and phone numbers should be provided.
- For the engagements listed above, indicate the scope of the work, date, supervising actuaries, and the name and telephone number of the principal client contact who would serve as a reference for the firm.
- Submit a fee proposal which details hourly rates, an estimate of the number of hours needed to complete the project, an estimate of non-personnel costs, and an estimate of the total project cost. No additional payment will be made for travel expenses.



- The firm should provide an affirmative statement that it is independent of the governmental entity/plan and that it is unaware of any potential conflicts of interest if it were selected to perform the requested work.
- The firm should describe any limits on liability that the firm requests from its clients due to negligence of its firm.
- The firm should indicate if there are any pending legal actions against it.
- The firm should warrant that the firm maintains errors and omissions insurance that provides a prudent amount of coverage for negligent acts or omissions insurance that provides a prudent amount of coverage for negligent acts or omissions and that its coverage is applicable to the work requested in this proposal.
- Describe and list the information and materials that will be needed by the actuary from the city in order to complete the study.
- The response to the request for proposals should be signed by a representative of the firm with the acknowledgement that this individual is authorized to contractually bind the firm.
- Provide statement that firm, if awarded the contract, will execute City of Rockville Agreement – sample attached.
- Proposals may include any other information about your firm which you believe would be relevant to the City's selection of its investment consultant.
- **Affidavit**  
Submit completed Affidavit (form enclosed).

**G. Term of Agreement and Project Deadlines**

The City is required to implement the GASB standard for its fiscal year ended June 30, 2008. The term of the Agreement is one year. It is expected that preliminary results be ready within six months from when the contract is awarded. The City, may, at its option, extend the Agreement with the same or more limited scope of required services for up to two (2) additional one-year terms. Please note that the extension of the Agreement beyond the initial one-year contract will also be contingent upon funding approval by the City Council.

The City may, at any time during the contract period, make changes within the general scope of the contract and its technical provisions. If such change causes any increase or decrease in the firm's cost of performance, an adjustment will be made in contract price, or in time allowed for performance, or both, and a written memorandum of such adjustment shall be made. Any claims by the firm for such an adjustment must be made

in writing prior to proceeding with the service for which an adjustment is requested. Nothing in this clause shall excuse the firm from proceeding with performance of this contract in accordance with its original terms and conditions and any approved changes.

### **PROJECT STAFF**

The City will, throughout the Contract Term, and any renewal term, have the right to reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If the City reasonably rejects staff or subcontractors, the Contractor must provide replacement staff or subcontractors satisfactory to the City in a timely manner and at no additional cost to the City. The day-to-day supervision and control of the Contractor's employees shall be solely the responsibility of the Contractor.

### **TENTATIVE SCHEDULE**

The City expects to award the contract according to the following schedule:

September 1, 2006	Issue RFP
September 22, 2006, 1PM	Due Date for Proposal
Mid-October 2006	Award of Contract

### **SUBMISSION OF PROPOSALS**

One original and four (4) copies of the proposal shall be submitted to:

Eileen Morris, Contracts Officer  
Purchasing Office  
Rockville City Hall  
111 Maryland Avenue  
Rockville, Maryland 20850

### **AWARD CRITERIA**

Respondents must be significantly engaged in pension investment services and must have been actively involved in this field for a period of no less than five years. Respondents may not be currently providing actuarial services to the City of Rockville Pension Plan.

The evaluation of proposals will be based on:

- Quality and completeness of the consultant's work plan. 20%
- Qualifications and technical competence of the firm and of the proposed personnel. 25%
- Experience and past performance of the firm and it's proposed personnel on local governmental pension plans of similar or greater size and complexity, including such factors as quality of work, control of costs, and ability to meet schedule. 25%
- Quality of data processing and analytical systems necessary to support the work plan. 15%
- Cost of the services.

The quality of the service is the paramount consideration;  
the City is seeking a high quality service performed in a  
cost-effective manner.

15%

Respondents will be evaluated initially on the basis of the written proposals received.  
Further evaluations may include an oral presentation by those firms deemed most  
responsive to the RFP.

**CONTACT INFORMATION**

**CONTRACTURAL CONTACT**

Contractual questions shall be referred to Ms. Eileen Morris, Contract Officer,  
(240) 314-8432. Email [emorris@rockvillemd.gov](mailto:emorris@rockvillemd.gov)

**TECHNICAL CONTACT**

Technical questions should be addressed to Mr. Gavin Cohen, Director of Finance  
(240) 314-8402. Email: [gcohen@rockvillemd.gov](mailto:gcohen@rockvillemd.gov)



**CITY OF ROCKVILLE  
MARYLAND  
GENERAL CONDITIONS AND  
INSTRUCTIONS TO BIDDERS  
(PROPOSAL 4/04)**

1. **PREPARATION** All bids are to be submitted in a sealed envelope to the Purchasing Office marked with the bid number.

Conditional bids and bids containing escalator clauses will not be accepted. Bids must contain an original signature, in the space provided, of an individual authorized to bind the bidder.

2. **LATE BIDS** It is the bidder's responsibility to assure delivery of the bid at the proper time to the designated location. Bids delivered to any other office or location will not be considered.
3. **BID AWARD** The award will be made to the offeror whose proposal, in the opinion of the City is the best taking into consideration all aspects of the offeror's responses, including total net cost to the City. In the event that the offeror to whom the award is made does not execute a contract within 15 days from receipt of the contract, the City may give notice to such offeror of intent to award the contract to the next most qualified offeror, or to call for new proposals.
4. **ADDENDA** All addenda issued after the Request for Quotations and before the due date of the quotation shall become part of the contract. Bidders are required to acknowledge the addenda by one of the following methods; it is the responsibility of the vendor to make inquiry as to addenda issued:
- Return a copy of the addenda with the bid
  - Initial in person at City Hall receipt of the addenda
5. **ACCEPTANCE/REJECTION OF BIDS** The City reserves the right to reject any or all bids in part or full and to waive any technicalities or informalities as may best serve the interests of the City. The City will accept or reject bids within one hundred and twenty (120) days after the bid due date. Bids may not be withdrawn during that period.
6. **MULTI-YEAR BIDS** Multi-year contracts may be continued each fiscal year only after funding appropriations have been granted. In the event necessary funding appropriation is not granted, the multi year contract shall be null and void, effective July 1st of the affected year.

7. **ERRORS IN BIDS** When an error is made in extending total prices the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices or in preparation of bid will not relieve the bidder from performing the contract.
8. **BID WITHDRAWAL** Requests for withdrawal of bids prior to bid opening shall be transmitted to the contract officer in writing.
9. **MISTAKES** Bidders are expected to be thoroughly familiar with all bid documents, including all addenda. No consideration will be granted for any alleged misunderstanding of the intent of the specifications. Each bidder shall carefully and thoroughly examine these bid documents for completeness. No claim of any bidder will be allowed on the basis that these bid documents are incomplete.
10. **INTEREST IN MORE THAN ONE BID AND COLLUSION** Multiple bids received in response to a single solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid for a solicitation both as a bidder and as a subcontractor for another bidder, will result in rejection of all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two or more bidders submitting a bid for the work. Any or all bids may be rejected if reasonable grounds exist for believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.
11. **TERMS AND CONDITIONS** The terms and conditions of this document govern in event of conflict with any terms of the bidder's proposal, and are not subject to change by reasons of written or verbal statement by the contractor unless accepted in writing. Words and abbreviations which have well known technical or trade meanings are used in accordance with such meanings.
12. **EXECUTION OF CONTRACT** The Contractor shall be required to execute a formal agreement with the City within fifteen days from the award. A sample of the agreement is attached. No revisions to the agreement will be allowed.
13. **PRINCIPAL PERSONNEL** Principal or key personnel included in the proposal may not be substituted without written approval of the City of Rockville. Replacements for key personnel under the contract must have equivalent professional qualifications and experience as those individuals listed in the proposal. The Consultant must submit written professional qualifications and experience for approval within ten working days prior to replacement.

14. **PRICE ADJUSTMENTS (CPI)** Unless otherwise stated in the bid document, rates quoted are to be firm for two (2) years after award of a contract. These rates will apply to additional work, change orders and contract modifications. A request for price adjustment after the 2 year period is subject to approval or rejection by the Contract Officer. The Consultant shall submit to the Contract Officer sufficient justification to support the Consultant's request.

A request for price adjustment may not be approved which exceeds the amount of the annual percentage change of the Consumer Price Index (CPI) for the twelve-month period immediately prior to the date of the request.

15. **INTERPRETATION** Any questions concerning conditions and specification shall be directed in writing to the Purchasing Office. The submission of a bid shall be prima facie evidence that bidder thoroughly understands the terms of the specification. The contractor shall take no advantage of any error or omission in the specifications.

16. **DELIVERY** All time limits stated in the contract documents are of the essence. The contractor shall expedite the work and achieve substantial completion within the contract time. If time limits are not specified, state the number of days required to make delivery/completion in the space provided. Defective or unsuitable materials or workmanship shall be rejected and shall be made good by the contractor, notwithstanding that such materials/workmanship have been previously overlooked and accepted.

17. **PAYMENT** Payment will be made monthly upon receipt of an accepted invoice for work done which is reasonable and allocable to the Agreement and which has been performed to the satisfaction of the City.

Invoices should be submitted in duplicate to:  
City of Rockville  
Attn: Accounts Payable  
111 Maryland Avenue  
Rockville, Maryland 20850

All invoices must reference a Purchase Order Number.

Payment will be made upon acceptable inspection and/or testing of all items for compliance with specifications and in satisfactory condition. Should inspection delays occur, the contractor shall have thereby no claim for damages or extra compensation. Discounts shall be applicable from the date of acceptance of the materials rather than the date of the invoice.

18. **DELAYS/EXTENSION OF TIME** If the contractor is delayed in the delivery of the supplies, equipment or services by any act or neglect of the City or by a separate contractor employed by the City, or by any

changes, strikes, lockouts, fires, unusual delays in transportation or delay authorized by the City, the City shall review the cause of such delay and shall make an extension if warranted.

All claims for extensions must be a written notice sent to the Contract Officer within ten (10) calendar days after the date when such alleged cause for extension of time occurred. All such claims shall state specifically the amount of the delay the contractor believes to have suffered. If statement is not received within the prescribed time the claim shall be forfeited and invalidated.

19. **TERMINATION FOR DEFAULT** The contract may be cancelled or annulled by the City in whole or in part by written notice of default to the Contractor upon nonperformance or violation of contract terms and an award made to next low Bidder, or, articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting Contractor (or his surety) shall be liable to the City for costs to the City in excess of the defaulted contract prices: provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

20. **TERMINATION FOR CONVENIENCE** The performance of work or services under this contract may be terminated in whole or part, upon thirty (30) calendar days written notice when the City determines that such termination is in its best interest. The City shall be liable only for those goods and services furnished prior to the effective date of such termination.

21. **CHANGES** The City, without invalidating the contract, may order written changes in the work consisting of additions, deletions or modification with the contract sum and time being adjusted accordingly. All such changes shall be made in writing by the Contract Officer

Costs shall be limited to the following: cost of materials, cost of labor and additional costs of supervision and field office personnel directly attributable to the change.

The cost or credit to the City from a change in the work shall be determined by mutual agreement. The contractor shall do all work that may be required to complete the work contemplated at the unit prices or lump sum to be agreed upon.

No alterations or variables in the terms of the contract shall be valid or binding upon the City unless made in writing and signed by the City .

22. **EXTRA COSTS** If the contractor claims that any instructions by drawings or otherwise involve extra cost or extension of time, a written request must be submitted to the Project Manager within ten (10) calendar days after receipt of such instructions and before proceeding to execute the work, stating in

detail the basis for objection. No such claim will be considered unless so made.

Any discrepancies which may be discovered between actual conditions and those represented by the specifications and/or drawings shall be reported to the City and work shall not proceed, until written instruction has been received by the contractor from the City. On drawings the figured dimensions shall govern in the case of discrepancy between the scales and figures.

Anything shown on applicable plans and not mentioned in the specifications or mentioned in the specifications and not shown on the plans have the same effect as if shown or mentioned respectively on both.

23. **GUARANTEE** All guarantees and warranties required shall be furnished by the contractor and shall be delivered to the Contract Manager before final payment is made.

The contractor guarantees that the items conform to the design and specifications and to drawings, samples or other descriptions referred to in this document. The contractor further guarantees the items will be free from defects in materials and workmanship, latent or patent and are suitable for the intended purpose as far as the contractor knows or has reason to know..

24. **DEFECTIVE SUPPLIES/SERVICE** Defective or unsuitable materials or workmanship shall be rejected and shall be made good by the contractor.

If the work shall be found to be defective or to have been damaged, before final acceptance, the contractor shall make good such defect in a manner satisfactory to the City, without extra compensation.

25. **LEGAL REQUIREMENTS** All materials, equipment, supplies and services shall conform to applicable Federal and State laws and regulations. The contractor shall observe and comply with all Federal, State, County and local laws and ordinances that affect the work to be done. The provisions of this contract shall be governed by the law of the State of Maryland.

26. **SUBCONTRACTING** When allowed, bidders who intend to subcontract any portion of the work including delivery, installation or maintenance will submit to the City prior to the start of work: 1) a description of the items to be subcontracted, 2) all subcontractor names, addresses and telephone numbers and 3) the nature and extent of the work utilized during the life of the contract.

This does not relieve the contractor from the prime responsibility of full and complete performance under the contract. There shall be no contractual relationship between the City and any subcontractor.

27. **RESERVATIONS** The City reserves the right to add or delete any item(s) from the bid in whole or in part

at the City's discretion without affecting the bid prices for any item or remaining work. Unit prices submitted in the bid shall not be increased or decreased regardless of changes in quantity.

The City may waive minor differences in specifications in bids provided these differences do not violate the specifications' intent nor materially affect the operation for which the items are being purchased.

28. **AUTHORITY OF THE CITY MANAGER IN DISPUTES** Except as may otherwise be provided by the final agreement, any dispute concerning a question of fact arising under the agreement signed by the City and the contractor which is not disposed of by the final agreement shall be decided by the City Manager who shall notify the contractor in writing of his determination. The contractor shall be afforded the opportunity to be heard and offer evidence in support of the claim. Pending final decision of the dispute herein, the contractor shall proceed diligently with performance under the agreement signed by the City and the contractor. The decision of the City Manager shall be final and conclusive unless an appeal is taken pursuant to City Purchasing Ordinance.

29. **INDEMNIFICATION OF THE COUNCIL** The contractor shall indemnify and save harmless the Mayor and Council from all suits, actions and damages or costs, of every name and description to which the Council may be subjected or put by reason of injury to persons or property as a result of the work, whether caused by negligence or carelessness on part of the contractor, or subcontractors or agents of the contractor.

30. **NO LIMITATION OF LIABILITY** The mention of any specific duty or liability of the contractor in any part of the of specification shall not be construed as a limitation or restriction upon any general liability or duty imposed upon the contractor.

31. **PROPRIETARY INFORMATION** The City agrees, to the extent permitted by law, to hold all material and information belonging to the offeror, which it deems to be confidential, in strictest confidence. The Contractor agrees to hold all material and information belonging to the City or the City's agents in strictest confidence and not to make use thereof other than for the performance of contractual obligations, to release it only to employees requiring such information. Reasonable precautions will be exercised for the protection of any proprietary data included in the proposal.

32. **RELEASE OF INFORMATION** During the term of the final agreement, the successful Contractor shall not release any information related to the services or the performance of the services under the agreement nor publish any final reports or documents without the prior written approval of the City.

33. **PATENTS AND ROYALTIES** Whenever any article, material, appliance, process composition, means or things called for by these specifications are covered by Letter of Patent, the successful bidder must secure, before using or employing such materials, the assent in writing of the owner or licensee of such letters of patent, and file the same with the City of Rockville.

The Contractor will defend, at its own expense, and will pay the cost and damages awarded in any action brought against the City based on any allegation that the items provided by the Contractor infringe on a patent and copyright license or trade secret. In the event that an injunction shall be obtained against the City's use of items by reason of infringement of any patent, copyright, license or trade secret, the Contractor will, at its expense, procure for the City the right to continue using the items, replace or modify the same so that it becomes non-infringing.

34. **MISCELLANEOUS PROVISIONS** The City and the contractor each bind themselves, their partners, successors, assign and legal representatives of such other parties in respect to all covenants, agreements, and obligations contained in the contract document. Neither party to the contract shall assign the contract or sublet it as a whole without the written consent of the other, nor shall the contractor assign any monies due or to become due hereunder without the previous written consent of the City. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to any officer of the corporation for whom it was intended if delivered or sent by registered or certified mail to the last known address.

Duties and obligations imposed by the contract documents and the rights and remedies available there under shall be in addition to and not a limitation of the duties, obligations, rights and remedies otherwise imposed or available by law, unless so indicated.

The contractor shall not be permitted to do any work which will require the services of any City employee on City holidays, Saturday or Sunday unless authorized by the appropriate City supervisor.

35. **ETHICS REQUIREMENTS** In accordance with the City's financial disclosure and ethical conduct policy and/or ordinances a prerequisite for payment pursuant to the terms of this contract is that the Contractor may be required to furnish explicit statements, under oath, that the City Manager, and/or any other officer, agent, and/or employee of the City, and any member of the governing body of the City of Rockville or any member or employee of a Commission, Board, or Corporation controlled or appointed by the City Council, Rockville, Maryland has not received or has not been promised directly or indirectly any financial benefit by way of fee, commission, finder's fee, or in any other manner, remuneration arising from directly or indirectly

related to this contract, and that upon request by the City Manager, or other authorized agent, as a prerequisite to payment pursuant to the terms of this contract, the Contractor will furnish to the Mayor and Council of the City of Rockville, under oath, answers to any interrogatories to a possible conflict of interest has herein embodied.

36. **BROKERING** The Contractor warrants that only an established commercial or selling agency maintained by the Contractor for the purpose of securing business may be retained to solicit or secure this contract. Any brokerage arrangements must be disclosed in the proposal. For violation of this warranty, the City shall have the right to terminate or suspend this contract without liability to the City.

37. **EQUAL EMPLOYMENT OPPORTUNITY** The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, or disability. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex, national origin, or disability. Such action shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment, layoff or termination; rates of pay or other form of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices (provided by the City) setting forth the provisions of this nondiscrimination clause.

If the contractor fails to comply with nondiscrimination clauses of this contract or fails to include such contract provisions in all subcontracts, this contract may be declared void AB INITIO, cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further contracts with the City of Rockville.

Any employee, applicant for employment, or prospective employee with information concerning any breach of these requirements may communicate such information to the City Manager who shall commence a prompt investigation of the alleged violation. Pursuant to such investigation, the contractor will permit access to the contractor's books, records and accounts. If the City Manager concludes that the contractor has failed to comply with nondiscrimination clauses, the remedies set out above may be invoked.

38. **ASSIGNMENT** Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the contractor except as expressly authorized in writing by the City.

39. **INSURANCE** Prior to the execution of the contract, the Contractor must obtain at their expense and keep in force and effect during the term of the contract including all extensions, the insurance

specified below, with an insurance company licensed or qualified to do business in the State of and. The Contractor must submit to the Purchasing division a certificate of insurance prior to the start of any work. The certificate must show the quotation number and name of the project. Except for Professional Liability Insurance, the Mayor and Council, City of Rockville must be named as an additional insured on all liability policies. The insurer will endeavor to provide thirty (30) days written notice to the City of cancellation or material change in the policy. In no event may the insurance coverage be less than shown below.

Unless otherwise described in this contract the successful contractor and subcontractors will be required to maintain for the life of the contract and to furnish the City evidence of insurance as follows:

Commercial General  
Liability Insurance

Bodily Injury	\$1,000,000 each occurrence
Property Damage	\$500,000 each occurrence

Blanket Contractual	Bodily Injury \$1,000,000 each occurrence
Coverage	\$500,000 each occurrence
Property Damage	

Independent Contractor	Bodily Injury
Coverage	\$1,000,000 each occurrence
	Property Damage
	\$500,000 each occurrence

Personal Injury	\$1,000,000 aggregate
Coverage	
(Sections A, B, and C)	

<u>Workman's Comp Insurance</u>	Section A – Statutory limits State of Maryland
	Section B – Employer's Liability (\$500,000 each accident)

<u>Comprehensive Automobile Liability Insurance</u>	Bodily Injury
	\$500,000 each person
	\$1,000,000 each occurrence

(Applicable to owned, non-owned and hired vehicles)	Property Damage
	\$500,000 each occurrence

<u>Professional Liability Insurance</u>	\$1,000,000 covering acts or omissions of the Contractor
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The Contractor shall not commence any work under the Contract until a written Purchase Order is received from the Contract Officer

Alternative insurance requirements, when outlined under the special provisions of this contract, shall take precedence over the above requirements in part or in full as described therein.



# AFFIDAVIT

I hereby affirm that:

I am the \_\_\_\_\_ and the duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_

and that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.

I further affirm:

## AFFIDAVIT OF QUALIFICATION TO CONTRACT WITH A PUBLIC BODY

1. Except as described in Paragraph 2 below, neither I nor the above firm nor, to the best of my knowledge, any of its controlling stockholders, officers, directors, or partners, performing contracts with any public body (the State or any unit thereof, or any local governmental entity in the state, including any bi-county or multi-county entity), has:

A. been convicted under the laws of the State of Maryland, any other state, or the United States of any of the following:

- (1) bribery, attempted bribery, or conspiracy to bribe.
- (2) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract.
- (3) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property.
- (4) a criminal violation of an anti-trust statute.
- (5) a violation of the Racketeer Influenced and Corrupt Organization act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract.
- (6) a violation of Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland.
- (7) conspiracy to commit any of the foregoing.

B. pled nolo contendere to, or received probation before verdict for, a charge of any offense set forth in subsection A of this paragraph.

C. been found civilly liable under an anti-trust statute of the State of Maryland, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract.

D. during the course of an official investigation or other proceeding, admitted, in writing or under oath, an act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection A or C of this paragraph.

2. [State "none," or as appropriate, list any conviction, plea or admission as described in Paragraph 1 above, with the date, court, official or administrative body, the individuals involved and their position with the firm, and the sentence or disposition, if any]. \_\_\_\_\_

3. I further affirm that neither I nor the above firm shall knowingly enter into a contract with the Mayor and Council of Rockville under which a person or business debarred or suspended from contracting with a public body under Title 16

of the State Finance and Procurement Article of the Annotated Code of Maryland, will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

I acknowledge that this Affidavit is to be furnished to the Mayor and Council of Rockville and, where appropriate, to the State Board of Public Works and to the Attorney General. I acknowledge that I am executing this Affidavit in compliance with the provisions of Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland which provides that persons who have engaged in certain prohibited activity may be disqualified, either by operation in law or after a hearing, from entering into contracts with the Mayor and Council of Rockville. I further acknowledge that if the representations set forth in this Affidavit are not true and correct, the Mayor and Council of Rockville may terminate any contract awarded, and take any other appropriate action.

## NON—COLLUSION AFFIDAVIT

1. Am fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;

2. Such bid is genuine and is not a collusive or sham bid

3. Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or to fix any overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Mayor and Council of Rockville, Maryland (Local Public Agency) or any person interested in the proposed Contract; and

4. The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

I do solemnly declare and affirm under the penalties of perjury that the contents of these affidavits are true and correct.

Signature and Title \_\_\_\_\_ Date \_\_\_\_\_

COMPLETE THIS FORM AND RETURN WITH YOUR BID PROPOSAL

## ***AGREEMENT***

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2006 by and between the **MAYOR AND COUNCIL OF ROCKVILLE**, a municipal corporation organized under the laws of Maryland, hereinafter referred to as the "CITY", and (consultant name) hereinafter referred to as "CONTRACTOR".

### **WITNESSETH**

WHEREAS, the City desires a contractor to provide services for the (project name); and

WHEREAS, the City desires to employ the services of the Contractor to perform said services in connection with the aforementioned service under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the covenants and promises set forth, the parties hereto agree as follows:

1. **SCOPE OF WORK.** The Contractor agrees to perform the work described and be bound by the terms and conditions set forth in Exhibit A attached hereto as a part hereof. In the event any term of the attached exhibit conflicts with this Agreement, this Agreement shall prevail. Contractor shall perform the serves described in this Agreement (a) in a timely, diligent and professional manner in accordance with recognized standards of the applicable industry or profession, and (b) in accordance with the time periods set forth in this Agreement and in the schedule and sequencing specified by the City. Contractor shall furnish efficient business administration and superintendence and shall use its best efforts to insure that such services being performed under this Agreement are completed in the best way and in the most expeditious and economical manner consistent with the City's best interests.

2. **REVIEW BY CITY.** The Contractor agrees that the work and records covered by this Agreement will be subject to review, at all times, by representatives of the City.

3. **DOCUMENTS, ETC.** All finished or unfinished documents, data, studies, surveys, drawings, CADD drawings, maps, models, photographs, letters and reports prepared by the Contractor or his subcontractors shall become the property of the City.

4. **EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this Agreement, the Contractor agrees that he will comply with all applicable federal, state and local laws relating to discrimination in employment.

5. **INDEMNIFICATION.** The Contractor agrees to indemnify and save harmless the City against any liability, claim, demand for personal injury or property damage, and other expenses or losses suffered or arising out of or caused by any negligent act or omission of the Contractor, its subcontractors, servants, agents or employees incurred in the performance of the Agreement.

6. **TERMINATION FOR CONVENIENCE.** The City may terminate this Agreement for convenience by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Agreement is terminated by the City as provided in this Section the Contractor will be paid on a pro-rata basis for work performed.

7. **TIME OF ESSENCE.** The Consultant acknowledges that time is of the essence in providing the services under this Agreement and agrees to assign adequate personnel sufficient to respond to requests for service. (enter completion date if applicable)

8. **TERMINATION FOR CAUSE.** If through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligation under this Agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Agreement is terminated by the City as provided in this Section the Contractor will be paid an amount based on the number of hours actually worked at the hourly rates set forth herein, or if no hourly rate is set forth, Contractor shall be paid on a pro-rata basis for work performed. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments due the Contractor up to the full amount of the Contractor's fee, until such a time as the exact amount of damages due the City from the Contractor is determined by any Court of Competent Jurisdiction.

9. **COMPLIANCE WITH LAWS.** The Contractor shall observe and comply with federal, state, county and local laws, ordinances and regulations that affect the work to be done herein, and shall indemnify and hold the City harmless, and all of its officers, agents and servants against any claim or liability from or based on the violation of any such law, ordinance or regulation, whether by the Contractor or the Contractor's agent. Notwithstanding the foregoing, in the event that the Contractor determines that a conflict exists between any applicable law, ordinance and/or regulation, the Contractor will so advise the City and the City will decide which law, ordinance and/or regulation shall be followed.

10. **SUBCONTRACTS.** None of the services covered by this Agreement, shall be subcontracted without the prior written consent of the City. The Contractor will require all subcontractors to have in effect at all times insurance coverage for negligent acts, errors and omissions of subcontractors and their employees and the City shall be named as an insured party.

11. **ASSIGNMENT.** The Contractor shall not assign or transfer any interest in this Agreement without the prior written approval of the City.

12. **INSURANCE.** The Contractor shall carry insurance with limits as outlined under the attached Insurance Requirement document and shall provide to the City a certificate evidencing the same.

13. **CONFLICTS OF INTEREST.** The Contractor covenants that it has presently no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required to be performed under this Agreement. The Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed.

14. **DISPUTES.** Except as otherwise provided in this agreement, any dispute concerning a question of fact arising out of this agreement which is not disposed of by agreement, shall be decided in accordance with Section 17-174 of the City's Purchasing Ordinance as set forth in Chapter 17 of the Rockville City Code.

15. **GOVERNING LAW.** This agreement is executed in the State of Maryland and shall be governed by Maryland law. The Contractor, by execution of this Agreement, consents to the jurisdiction of the Maryland state courts with respect to any dispute arising out of this agreement and further consents to venue in Montgomery County, Maryland.

16. SUCCESSORS AND ASSIGNS: This Agreement shall be binding and inure to the benefit of all successors and assigns of the parties hereto. Notwithstanding the foregoing, this Agreement shall be considered a personal services contract and the Contractor shall not assign any right or obligation under this Agreement without the City's express written consent which may be withheld in the City's sole and absolute discretion.

17. INDEPENDENT CONTRACTOR. The Contractor shall perform this Agreement as an independent contractor and shall not be considered an agent of the City, nor shall any of the Contractor's employees or agents be subagents of the City.

18. PAYMENT TERMS. Compensation shall be made by the City to the Contractor on a monthly basis. The fee for the work to be performed hereunder as set forth in the attached Exhibit A is in the amount not to (contract lump sum or NTE price). In the event the labor hours and expenses exceed this amount the Contractor shall complete the task with no additional compensation

19. INVOICING. Requisitions for payment shall include a complete description of the services rendered, personnel, hourly rates, hours and date of services. All requisitions shall be submitted to the (enter name).

20. MODIFICATION. This agreement may be modified only by written instrument signed by both parties hereto.

21. ENTIRE AGREEMENT. This agreement, including the exhibits attached hereto, constitutes the entire agreement between the City and the Contractor, and the parties shall not be bound by any prior negotiation, representations or promises, not contained herein.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto on the date written above.

ATTEST

\_\_\_\_\_  
Claire Funkhouser, City Clerk

THE MAYOR AND COUNCIL OF  
ROCKVILLE

By: \_\_\_\_\_  
Scott Ullery  
City Manager

ATTEST

\_\_\_\_\_

(Consultant Name)

By: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
David R. Podolsky, Assistant City Attorney